MINUTE ITEM

This Calendar Item No. 30 was approved as Minute Item No. 30 by the State Lands Commission by a vote of 2 to 0 at its 2/25/82 meeting.

CALENDAR ITEM

30

2/25/82
G 04-02
Grimes
Stevenson

APPROVAL OF SETTLEMENT OF TITLE DISPUTE, CITY OF EUREKA

Pursuant to Chapter 1085 of the Statutes of 1970, the City of Eureka is empowered to negotiate and complete the settlement of sovereign lands dispute within the grant to the City of Eureka, subject to the prior approval of the State Lands Commission.

The staff of the State Lands Commission has received a request from the City of Eureka to approve a proposed sovereign lands settlement agreement it has negotiated with Fred H. Lundblade, Jr., Charlene J. Lundblade, Henry J. Kelly, and Patricia A. Kelly, record owners of a parcel of land subject to a sovereign lands claim. The parcel dealt with in this settlement is described in the attached Exhibit "A", is shown in its general locality on the attached Exhibit "B", and will be referred to throughout this item as SUBJECT PARCEL. The settlement agreement is on file at the offices of the Commission and is incorporated as a part of this Calendar Item by this reference.

Review by staff has shown that the SUBJECT PARCEL lies within the perimeter description of Tideland Patent No. 2 and is subject to an easement in favor of commerce, navigation, and fisheries. The SUBJECT PARCEL lies completely above the line of the present mean high tide and is bounded by a street on one side and other fast land on its remaining three sides.

The essential terms of the settlement agreement provide that:

1. The City of Eureka, with the approval of the State Lands Commission, will quitclaim all of its right, title, and interest as trust grantee in the SUBJECT PARCEL. Under Chapter 1085 of the Statutes of 1970, this quitclaim, if effectuated, will operate to also extinguish all sovereign right, title, and interest of the State of California in the SUBJECT PARCEL.

2. In consideration of the quitclaim by the City, the current record owners will pay $1,000 to the Eureka Tidelands Fund;

A 2

S 2

3. All monies deposited into the Fund will be held in trust and can only be used for the purchase of tide and submerged lands or interests or for the purchase of other lands or interests in land which are useful for public trust purposes;

4. Withdrawal of monies from Fund will be made only when a suitable parcel is found and the State Lands Commission and the City of Eureka certify that the parcel meets the requirements specified above;

5. Any land purchased with money from the Fund will become sovereign land of the State subject to the provisions and limitations of the applicable granting statutes to the City of Eureka and to the common law public trust for commerce, navigation, and fisheries.

The City of Eureka, with the assistance of Commission staff and the review of the Office of the Attorney General, has completed an investigation and appraisal of sovereign lands interests within the SUBJECT PARCEL and has concluded that the value of those interests does not exceed $1,000. The cost of litigation to prove sovereign rights in the SUBJECT PARCEL would exceed the value of those rights. The Commission's staff and the Office of the Attorney General recommend approval of this settlement as the best means of promoting sovereign lands interests within the Eureka grant.

AB 884: N/A.

EXHIBITS: A. Land Description.
B. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION, IN ACCORDANCE WITH CHAPTER 1085 OF THE STATUTES OF 1978:

1. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY QUESTIONS AND THAT CEQA IS THEREFORE INAPPLICABLE.

2. DETERMINE AND DECLARE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085, THAT THE SUBJECT PARCEL, TO THE EXTENT SAID PARCEL WAS SOVEREIGN TIDELANDS AND SUBMERGED LANDS AND NOT UPLANDS, HAS HERETOFORE BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF THE HUMBOLDT BAY AREA, AND IN THE PROCESS OF SUCH DEVELOPMENT HAS BEEN FILLED AND RECLAIMED, IS NO LONGER SUBMERGED OR BELOW THE PRESENT LINE OF MEAN HIGH TIDE, AND IS

NO LONGER NECESSARY OR USEFUL FOR COMMERCE, NAVIGATION OR FISHERIES, OR SUCH USES OR TRUSTS AS ARE OR HAVE BEEN IMPOSED BY THE STATUTORY GRANTS OF TIDE AND SUBMERGED LANDS FROM THE STATE TO THE CITY, AND IS HEREBY FREED FROM SUCH STATUTORY AND COMMON LAW TRUSTS.

3. IN ACCORDANCE WITH SECTION 6 OF CHAPTER 1085 OF THE STATUTES OF 1970, APPROVES THE SETTLEMENT AGREEMENT (NOW ON FILE IN STATE LANDS COMMISSION OFFICES AND INCORPORATED HEREIN BY THIS REFERENCE) AND THE CONVEYANCES PROVIDED FOR THEREIN AND APPROVES THE CITY, AS TRUSTEE OF THE STATUTORY AND COMMON LAW TIDELAND TRUST, CONVEYING TO OWNERS ALL OF THE RIGHT, TITLE AND INTEREST OF THE STATE OF CALIFORNIA AND ALL OF THE RIGHT, TITLE AND INTEREST OF THE CITY OF EUREKA, HELD BY VIRTUE OF CHAPTER 225 OF THE STATUTES OF 1945 AND CHAPTER 1085 OF THE STATUTES OF 1970, IN AND TO ALL OF THAT REAL PROPERTY DESCRIBED AS THE SETTLEMENT AREA IN EXHIBIT "A" HEREIN.

4. FURTHER, FIND AND DECLARE THAT THE CONSIDERATION BEING PAID TO THE CITY, PURSUANT TO THIS AGREEMENT, HAS VALUE EQUIVALENT TO OR EXCEEDING THE VALUE OF THE INTEREST OF THE STATE AND CITY BEING CONVEYED TO OWNERS HEREUNDER, AND APPROVES OF THE ADEQUACY OF THE CONSIDERATION AS DETERMINED BY THE CITY WITH RESPECT TO THE SETTLEMENT PROVIDED FOR HEREIN, IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085.

5. AUTHORIZE THE EXECUTION OF AND DELIVERY INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, PURSUANT TO AND IN ACCORDANCE WITH SECTIONS 2(b) AND 5 OF CHAPTER 1085, STATUTES OF 1970, THE SUBJECT SETTLEMENT AGREEMENT WHICH CERTIFIES THE LANDS WITHIN THE SUBJECT PARCEL DESCRIBED IN EXHIBIT "A" ARE LANDS ABOVE THE PRESENT LINE OF MEAN HIGH TIDE AND HAVE BEEN FOUND TO BE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION, UPON THE RECORDATION OF WHICH SETTLEMENT AGREEMENT AND THE LANDS WITHIN SAID SUBJECT PARCEL SHALL BE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERY, AND NAVIGATION, AND FROM SUCH USES, TRUSTS, CONDITIONS AND RESTRICTIONS AS ARE OR HAVE BEEN IMPOSED BY CHAPTER 187, STATUTES OF 1927, CHAPTER 225, STATUTES OF 1945, AND CHAPTER 1085, STATUTES OF 1970, AS SUBSEQUENTLY AMENDED AND MODIFIED.

6. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AGREEMENT, INCLUDING REPRESENTATION OF THE COMMISSION IN ANY LEGAL ACTION TO DETERMINE THE LEGALITY OF THIS ACTION.

EXHIBIT "A"

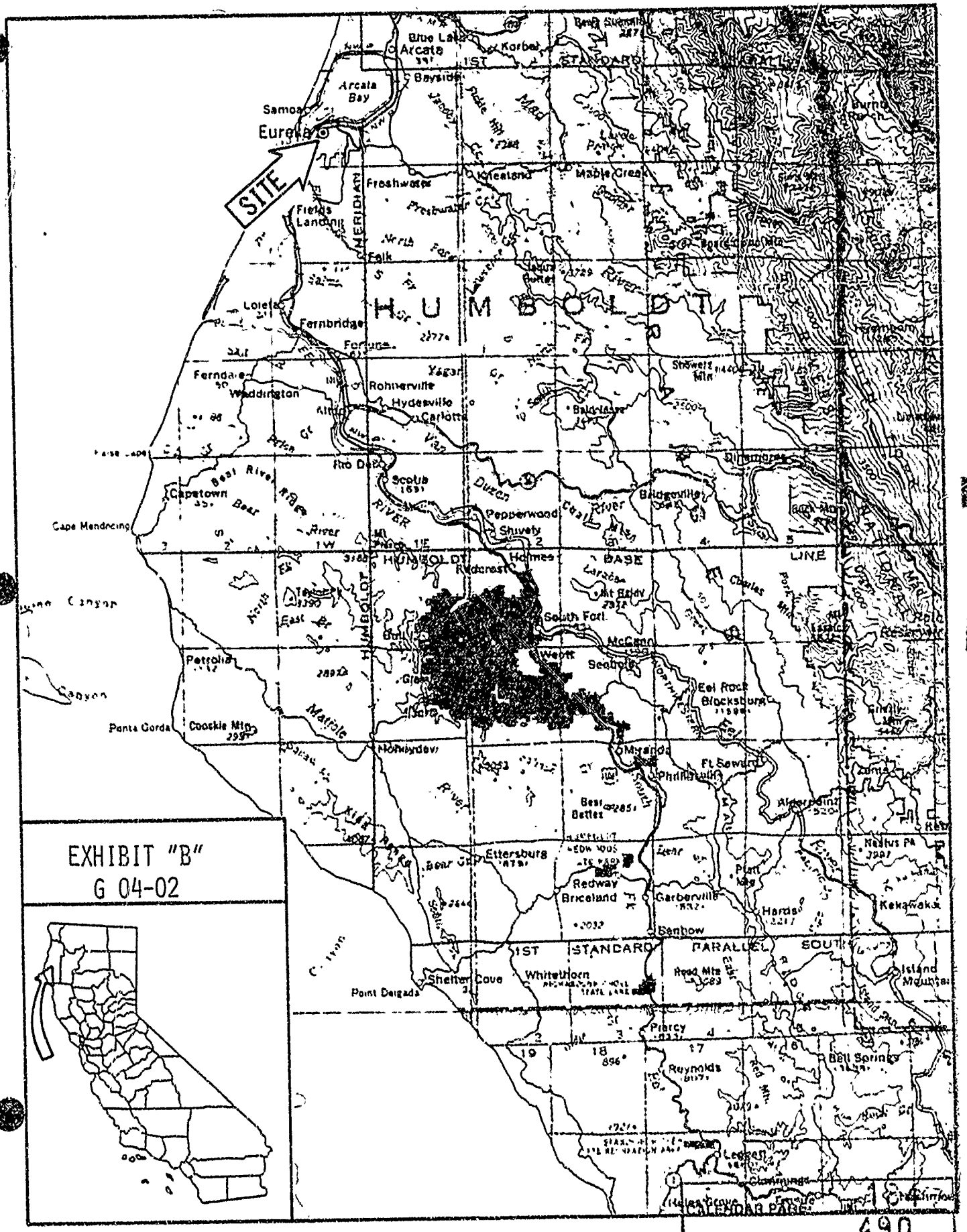
LAND DESCRIPTION G 04-02

All that real property situate in the City of Eureka, County of Humboldt, State of California, described as follows:

The North 120 feet of Parcel 1, measured along the East and West lines thereof, as shown on Parcel Map No. 1757 on file in the office of the County Recorder of said county in Book 15 of Parcel Maps, page 87.

END OF DESCRIPTION

RETYPED IN TECHNICAL SERVICES UNIT FROM MATERIAL PROVIDED BY STAFF COUNSEL ON FEBRUARY 8, 1982.


SITE
Eureka
Arcata
Arcata Bay
Blue Lake
Korbel
Bayside
Samoa
Freshwater
Kneeland
Maple Creek
Fields Landing
Loleta
Fernbridge
Fortuna
Ferndale
Rohnerville
Hydesville
Carlotta
Scotia
Pepperwood
Shively
Capetown
Cape Mendocino
Redcrest
Holmes
Alton
South Fork
Petrolia
Cooskie Mtn
Ettersburg
Redway
Briceland
Garberville
Benbow
Shelter Cove
Whitethorn
Point Delgada
Piercy
Reynolds
Bell Springs
Leggett
HUMBOLDT
MERIDIAN
1ST STANDARD PARALLEL SOUTH
BASE LINE
EXHIBIT "B"
G 04-02